

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the)	
Certification to Conduct Gambling Activities of:)	NO. CR 2011-00359
)	
David Fisk)	FINDINGS, CONCLUSIONS,
Yelm, Washington,)	DECISION, AND FINAL
)	ORDER IN DEFAULT
Class III Employee.)	

THE MATTER of the revocation of the certification to conduct gambling activities of David Fisk having come before the Commission on August 11, 2011, the State being represented by Jerry Ackerman, Senior Counsel, Office of the Attorney General, the Commission makes the following Findings of Fact, Conclusions of Law, and issues the following Decision and Order:

FINDINGS OF FACT

I.

The Washington State Gambling Commission issued David Fisk certification¹ number 69-12204, authorizing Class III Employee activity, formerly at the Red Wind Casino.

The certification expires on December 27, 2011, and was issued subject to the Class III Employee's compliance with state gambling laws and rules and the Nisqually Tribal/State Compact.

II.

On April 19, 2011, Director Rick Day issued administrative charges to David Fisk, by certified and regular mail. The administrative charges notified Mr. Fisk that failure to respond would result in the entry of a default order revoking his certification. Mr. Fisk did not respond to the charges.

By not responding, David Fisk waived his right to a hearing on such charges and pursuant to RCW 34.05.440, this final order may be entered in default.

III.

1) On December 23, December 30, and December 31 of 2010, and on January 1, January 5, January 6, January 7, and January 8 of 2011, the Class III Employee, while working as a craps dealer at the Red Wind Casino, intentionally placed "free bets"², and failed to collect losing bets.

¹ The Commission issues Class III Certifications to employees working at Tribal casinos. Certifications allow similar activities as Card Room Employee (CRE) licenses issued to persons working at commercial house-banked card rooms. Class III Employees may transfer their certifications to a CRE license and work at commercial card rooms by sending Commission staff a transfer form and the accompanying fee.

² Bets made to benefit the patron with casino "house" money, and not the patron's money.

This caused the casino to lose money in the amount of approximately \$10,000. Nisqually Tribal Gaming Agents observed on surveillance video the Class III Employee improperly set up and collect patrons' bets. Mr. Fisk admitted granting favors to patrons and giving "free money" to guests to gamble. Mr. Fisk provided a written statement admitting that he regrets his actions.

2) Under RCW 9.46.190, the Class III Employee's actions defrauded his employer and demonstrate that he poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities.

3) On January 12, 2011, the Nisqually Tribal Gaming Commission suspended the Class III Employee's Tribal Gaming License. On January 25, 2011, Mr. Fisk withdrew his request for a hearing on the tribal suspension. Mr. Fisk's license was revoked by the Nisqually Tribal Gaming Commission on February 14, 2011.

4) The Nisqually Tribal Gaming Commission determined that the Class III Employee committed Cheating in the First Degree by giving "free money" to guests to gamble with.

5) The Class III Employee has failed to prove he is qualified for certification, as required under RCW 9.46.153. Therefore, under Section V. C. (1) and (3) of the Nisqually Tribal/State Compact, RCW 9.46.075 (1), (2), and (8), RCW 9.46.190 (1) and (3), RCW 9.46.153 (1), and WAC 230-03-085 (1) and (8), grounds exist to revoke David Fisk's certification.

Section V. C of the Nisqually/State Compact

The State Gaming Agency may revoke, suspend or deny a State Certification for any reason or reasons it deems to be in the public interest. (The following subsections apply.)

(1) The State Gaming Agency may revoke if a person whose prior activities, reputation and associations pose a threat to the effective regulation of gambling.

(3) The State Gaming Agency may revoke if the licensee has had a Tribal license revoked in the past twelve months.

RCW 9.46.075 Denial, suspension, or revocation of certification, application, or permit

The Commission may deny an application, or suspend or revoke any certification or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or Class III Employee, or any person with any interest therein: (The following subsections apply.)

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.

(2) Knowingly causes, aids, abets, or conspires with another to cause, any person to violate any of the laws of this state or the rules of the commission.

(8) Fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this chapter.

WAC 230-03-085 Denying, suspending, or revoking an application, certification or permit

We may deny, suspend, or revoke any application, certification or permit, when the applicant, Class III Employee, or anyone holding a substantial interest in the applicant's or Class III Employee's business or organization: (The following subsections apply.)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking certifications or permits under RCW 9.46.075.

(8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by: (a) Prior activities; or (b) Criminal record; or (c) Reputation; or (d) Habits; or (e) Associations.

RCW 9.46.190 Violations relating to fraud or deceit

Any person or association or organization operating any gambling activity who or which, directly or indirectly, shall in the course of such operation: (The following subsections apply.)

(1) Employ any device, scheme, or artifice to defraud.

(3) Engage in any act, practice or course of operation as would operate as a fraud or deceit upon any person.

Shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.02.021.

RCW 9.46.153(1) Applicants and licensees- Responsibilities and duties.

It shall be the affirmative responsibility of each applicant and Class III Employee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the certified activity will be conducted.

IV.

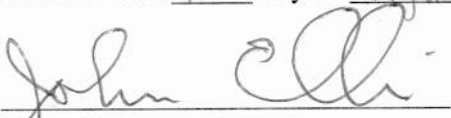
CONCLUSIONS OF LAW


The circumstances specified in the Findings of Facts in section III above constitute grounds for the revocation of David Fisk's certification to conduct gambling activities under the authority of Nisqually Tribal/State Compact, RCW 9.46.075, and WAC 230-03-085.

DECISION AND ORDER

The Washington State Gambling Commission HEREBY ORDERS: David Fisk's Class III certification to conduct gambling activities is REVOKED.

DATED this 11th day of August, 2011.


JOHN ELLIS, Chair


MIKE AMOS, Vice Chair

KEVEN ROJECKI


MICHAEL REICHERT

NOTICE: RCW 34.05.440(3) provides that within seven (7) days after service of a default order the party against whom it was entered may file a written motion requesting that the order be vacated and stating the grounds relied upon.

WAC 230-17-040(3) requires that motions be served on the parties listed below:

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